

Occupational Safety and Health Admin., Labor

§ 1975.3

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AUTHORITY: Secs. 2, 3, 4, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 651, 652, 653, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754).

SOURCE: 37 FR 929, Jan. 21, 1972, unless otherwise noted.

§ 1975.1 Purpose and scope.

(a) Among other things, the Williams-Steiger Act poses certain duties on employers. This part has the limited purpose and scope of clarifying which persons are considered to be employers either as a matter of interpretation of the intent and terms of the Act or as a matter of policy appropriate to administering and enforcing the Act. In short, the purpose and scope of this part is to indicate which persons are covered by the Act as employers and, as such, subject to the requirements of the Act.

(b) It is not the purpose of this part to indicate the legal effect of the Act, once coverage is determined. Section 4(b)(1) of the Act provides that the statute shall be inapplicable to working conditions to the extent they are subject to another Federal agency's exercise of different statutory authority affecting the occupational safety and health aspects of those conditions. Therefore, a person may be considered an employer covered by the Act, and yet standards issued under the Act respecting certain working conditions would not be applicable to the extent those conditions were subject to another agency's authority.

§ 1975.2 Basis of authority.

The power of Congress to regulate employment conditions under the Williams-Steiger Occupational Safety and Health Act of 1970, is derived mainly from the Commerce Clause of the Constitution. (section 2(b), Pub. L. 91-596; U.S. Constitution, Art. I, Sec. 8, Cl. 3; "United States v. Darby," 312 U.S. 100.) The reach of the Commerce Clause extends beyond Federal regulation of the channels and instrumentalities of

interstate commerce so as to empower Congress to regulate conditions or activities which affect commerce even though the activity or condition may itself not be commerce and may be purely intrastate in character. ("Gibbons v. Ogden," 9 Wheat. 1, 195; "United States v. Darby," supra; "Wickard v. Filburn," 317 U.S. 111, 117; and "Perez v. United States," 91 S. Ct. 1357 (1971).) And it is not necessary to prove that any particular intrastate activity affects commerce, if the activity is included in a class of activities which Congress intended to regulate because the class affects commerce. ("Heart of Atlanta Motel, Inc. v. United States," 379 U.S. 241; "Katzenbach v. McClung," 379 U.S. 294; and "Perez v. United States," supra.) Generally speaking, the class of activities which Congress may regulate under the commerce power may be as broad and as inclusive as Congress intends, since the commerce power is plenary and has no restrictions placed on it except specific constitutional prohibitions and those restrictions Congress, itself, places on it. ("United States v. Wrightwood Dairy Co.," 315 U.S. 110; and "United States v. Darby," supra.) Since there are no specific constitutional prohibitions involved, the issue is reduced to the question: How inclusive did Congress intend the class of activities to be under the Williams-Steiger Act?

§ 1975.3 Extent of coverage.

(a) Section 2(b) of the Williams-Steiger Occupational Safety and Health Act (Public Law 91-596) sets forth the purpose and policy of Congress in enacting this legislation. In pertinent part, that section reads as follows:

(b) Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources * * *

Congressman William Steiger described the scope of the Act's coverage in the following words during a discussion of the legislation on the floor of the House of Representatives: